

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

E. B.,

Defendant and Appellant.

A135039

(Solano County
Super. Ct. No. J38646)

Defendant appeals from a final judgment after a bench trial in juvenile court. The juvenile court sustained a petition alleging the minor committed the felony crime of burglary, a violation of Penal Code section 459. The appeal is authorized under Welfare and Institutions Code section 800. Appellate counsel has reviewed the file in this case and has determined there are no meritorious issues to raise on appeal. She has complied with the relevant case authorities. (*People v. Kelly* (2006) 40 Cal.4th 106; *People v. Wende* (1979) 25 Cal.3d 436.) Defendant was notified of his right to file a supplemental brief, but has not done so. Upon independent review of the record, we conclude that no arguable issues are presented for review, and affirm the judgment.

On August 23, 2011, the Solano County District Attorney filed a juvenile wardship petition alleging appellant committed first degree burglary in violation of Penal Code section 459. The trial court conducted a one-day bench trial on December 13, 2011. At sentencing, the probation officer recommended appellant's wardship be continued in all previous orders and that he be placed in the home of his mother. The

juvenile court followed the recommendation. The maximum term of confinement was set at 8 years and 6 months with total credits of 30 days. Appellant was placed on probation with standard terms and conditions, including a search condition, stay-away from the victim, and an order to refrain from drugs and alcohol.

Appellant filed a timely notice of appeal on March 23, 2012.

STATEMENT OF FACTS

M.S. resided at 525 East Wigeon Way in Suisun City, California, with her two daughters and a son. On February 4, 2011, M.S. “put” her daughter B.S. out of the home and told her to stay with a friend overnight. On February 5, 2011, M.S. left her home around noontime and locked the premises. She arrived back at the house at approximately 4:30 p.m. and noticed items belonging to her son were missing. The police were called. Missing were a Wii system; an iPod; an Xbox 360; and a bottle of Vicodin. M.S. recovered the Xbox and Wii system later from the police.

D.B. testified as a co-participant in the burglary. He related that he was called by N.W. and told to bring a bag to Heritage Park. On the afternoon of February 5, 2011, D.B. met with N.W. and appellant at the site. The minors discussed the fact a home where B.S. had been kicked out of was an “easy lead” this afternoon. Appellant told D.B. and N.W. he would keep B.S. out of the house and the other two minors should go into the home and take what they could. The group would meet later and exchange the booty. D.B. did not recall the name of the girl but remembered she lived at 525 East Wigeon.

Appellant led the other two to the residence on East Wigeon Street. He then contacted B.S. inside the house and walked her to a store. D.B. and N.W. entered the home and took various things including video games and electronic equipment, and then took the property to an abandoned house at the corner near the burgled home. The two then spoke with appellant and advised him they had stored the stolen property in the abandoned home.

On the stand, D.B. acknowledged he and appellant were no longer friends because of what appellant told police about the criminal offense. D.B. admitted he committed a prior burglary back in 2008.

Officer Pedro Arroyo of the Suisun City Police Department handled the investigation of this incident. Appellant was the first suspect Arroyo spoke with. In an interview in appellant's home, after receiving his *Miranda* rights¹, appellant told Arroyo that he was contacted by B.S. about the need to burglarize her mom's home. He declined. Then appellant ran across D.B. who told him that he was anxious to break into B.S.'s home. Arroyo took appellant to the police station. Appellant related that he was with B.S. when they came upon D.B. and N.W. The group agreed that while appellant went to the store with B.S. the other two would steal property from the house. While at the store, appellant got a phone call from D.B. and N.W. asking if he was still at the store.

Arroyo asked appellant where the property was located, but was told he did not know. The officer then indicated he would search appellant's home because he had a search condition from a prior juvenile case. Appellant told Arroyo that the property was not at his home, but at an empty house at 450 Coot Lane. The police went to that location and found some bags of property including an Xbox and a Wii. M.S. affirmed these items were stolen from her home.

In his defense case, the sole witness presented was M.J. who testified he saw appellant on February 5, 2011, at the McDonald's restaurant between 2:00 p.m. and 3:00 p.m.

DISCUSSION

The evidence presented at trial supports the finding by the juvenile court. Under Penal Code section 460, subdivision (a), the entry into an inhabited dwelling is burglary

¹ *Miranda v. Arizona* (1966) 384 U.S. 436.

in the first degree. M.S. and her family resided at 525 East Wigeon Way during the commission of this offense. (*People v. Cardona* (1983) 142 Cal.App.3d 481, 483.) There was a trespassory entry into the residence by D.B. and N.W. with an intent to take property from the home. (*People v. Talbot* (1966) 64 Cal.2d 691, 700; *In re Richard M.* (1988) 205 Cal.App.3d 7, 11.) Appellant acting as an aider and abettor in this conduct, was guilty as a principal. (*People v. Belenger* (1963) 222 Cal.App.2d 159, 163; *People v. Villa* (1957) 156 Cal.App.2d 128, 133.) The appellant had a key role in the scheme; both in identifying the site of the crime, 525 East Wigeon Way, and making sure the only occupant, B.S., was out of the house while the other two juveniles entered and stole property. Additionally, appellant was aware of the location of the stolen property and disclosed this knowledge to the police. This totality of evidence supports the sustaining of a petition beyond a reasonable doubt. The sentence by the court was a proper sentence under the facts and after a review of the probation report.

We affirm the judgment.

Dondero, J.

We concur:

Marchiano, P. J.

Margulies, J.